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12 Attorneys for Defendant
13 Apple Inc.

14
15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION
18

19 COREPHOTONICS, LTD.,
20 Plaintiff,
21 v.
22 APPLE INC.,
23 Defendant.
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25
26
27
28

Case No. 5:17-cv-06457

**ANSWER TO FIRST AMENDED
COMPLAINT**

DEMAND FOR JURY TRIAL

Original Complaint Filed:
November 6, 2017

ANSWER

1. Defendant Apple Inc. (“Apple”), hereby answers the First Amended Complaint filed by Plaintiff Corephotonics, Ltd. (“Corephotonics”). Each allegation not expressly admitted is denied. The following numbered paragraphs of this Answer correspond to the numbered paragraphs in the First Amended Complaint, other than with respect to the affirmative defenses, counterclaims, jury demand set forth herein, and the Prayer for Relief.

NATURE OF THE ACTION

2. Apple admits that this purports to be a civil action for patent infringement under 35 U.S.C. § 1, et seq.

3. Apple admits that U.S. Patent No. 9,402,032 (the “’032 patent”) is entitled “Miniature Telephoto Lens Assembly.” Apple further admits that the face of the ’032 patent indicates that it issued on July 26, 2016. Apple further admits that the face of the ’032 patent indicates that Corephotonics was the assignee of the patent on the date of issuance, but Apple is without sufficient information to admit or deny whether Corephotonics is the legal owner of the ’032 patent. Apple further admits that Exhibit A is a copy of the ’032 patent. Except as expressly admitted, Apple denies the remaining allegations in paragraph 3.

4. Apple admits that U.S. Patent No. 9,568,712 (the “’712 patent”) is entitled “Miniature Telephoto Lens Assembly.” Apple further admits that the face of the ’712 patent indicates that it issued on February 14, 2017. Apple further admits that the face of the ’712 patent indicates that Corephotonics was the assignee of the patent on the date of issuance, but Apple is without sufficient information to admit or deny whether Corephotonics is the legal owner of the ’712 patent. Apple further admits that Exhibit B is a copy of the ’712 patent. Except as expressly admitted, Apple denies the remaining allegations in paragraph 4.

5. Apple admits that U.S. Patent No. 9,185,291 (the “’291 patent”) is entitled “Dual Aperture Zoom Digital Camera.” Apple further admits that the face of the ’291 patent indicates that it issued on November 10, 2015. Apple further admits that the face of the ’291 patent indicates that Corephotonics was the assignee of the patent on the date of issuance, but Apple is without sufficient information to admit or deny whether Corephotonics is the legal owner of the ’291 patent. Apple

1 further admits that Exhibit C is a copy of the '291 patent. Except as expressly admitted, Apple denies
2 the remaining allegations in paragraph 5.

3 6. Apple admits that U.S. Patent No. 9,538,152 (the "'152 patent") is entitled "High
4 Resolution Thin Multi-Aperture Imaging Systems." Apple further admits that the face of the '152
5 patent indicates that it issued on January 3, 2017. Apple further admits that the face of the '152 patent
6 indicates that Corephotonics was the assignee of the patent on the date of issuance, but Apple is
7 without sufficient information to admit or deny whether Corephotonics is the legal owner of the '152
8 patent. Apple further admits that Exhibit D is a copy of the '152 patent. Except as expressly admitted,
9 Apple denies the remaining allegations in paragraph 6.

10 7. Apple denies the allegations in paragraph 7.

11 **THE PARTIES**

12 8. Apple is without sufficient information to admit or deny the allegations in paragraph 8
13 and therefore denies them.

14 9. Apple admits that Apple is a corporation organized and existing under the laws of the
15 State of California. Apple denies that its principal place of business is 1 Infinite Loop, Cupertino,
16 California. Apple's principal place of business is One Apple Park, Cupertino, California.

17 **JURISDICTION AND VENUE**

18 10. Apple admits that based on the allegations in the First Amended Complaint, this Court
19 would appear to have subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and
20 1338(a).

21 11. Apple admits that it is subject to this Court's personal jurisdiction for the purposes of
22 this action. Apple admits that it resides in and has its principal place of business in the Northern
23 District of California. Apple denies that it has committed any acts of patent infringement. Apple
24 admits that it has sold and offered for sale Apple products and services in the Northern District of
25 California. Except as expressly admitted, Apple denies the remaining allegations in paragraph 11.

26 12. Apple admits that venue is proper in the Northern District of California for the purposes
27 of this action. Apple admits that it resides in and has a place of business in this District. Apple denies
28

1 that it has committed any acts of patent infringement. Except as expressly admitted, Apple denies the
2 remaining allegations in paragraph 12.

3 **INTRADISTRICT ASSIGNMENT**

4 13. Apple admits that Civil L.R. 3-2(c) states that cases involving “Intellectual Property
5 Rights” are assigned on a district-wide basis. Except as expressly admitted, Apple denies the
6 remaining allegations in paragraph 13.

7 **FACTUAL ALLEGATIONS**

8 **A. Corephotonics’ Alleged Dual Camera Technology Innovations**

9 14. Apple is without sufficient information to admit or deny the allegations in paragraph
10 14 and therefore denies them.

11 15. Apple is without sufficient information to admit or deny the allegations in paragraph
12 15 and therefore denies them.

13 16. Apple is without sufficient information to admit or deny the allegations in paragraph
14 16 and therefore denies them.

15 17. Apple is without sufficient information to admit or deny the allegations in paragraph
16 17 and therefore denies them.

17 18. Apple admits that certain United States patents appear to be assigned to Corephotonics,
18 including the ’032, ’712, ’291, and ’152 patents (collectively, the “Asserted Patents”). Apple is
19 without sufficient information to admit or deny the remaining allegations in paragraph 18 and therefore
20 denies them.

21 19. Apple admits that the web site cited in Footnote 1 contains the first quotation listed in
22 paragraph 19. Apple is without sufficient information to admit or deny the remaining allegations in
23 paragraph 19 and therefore denies them.

24 20. Apple is without sufficient information to admit or deny the allegations in paragraph
25 20 and therefore denies them.

26 21. Apple admits that it had discussions with Corephotonics regarding potential business
27 arrangements. Apple admits that it has independently developed and sold iPhones with two cameras.
28 Apple denies that its independently developed iPhones with two cameras employ any Corephotonics

1 intellectual property. Apple is without sufficient information to admit or deny the remaining
2 allegations in paragraph 21 and therefore denies them.

3 **B. Apple's Alleged Interest in Corephotonics' Technology and Intellectual Property**

4 22. Apple admits that Apple personnel had discussions with Corephotonics personnel.
5 Apple is without sufficient information to admit or deny the remaining allegations in paragraph 22 and
6 therefore denies them.

7 23. Apple admits that Apple personnel attended meetings with Corephotonics personnel to
8 discuss a potential business arrangement. Apple is without sufficient information to admit or deny the
9 allegations in paragraph 23 and therefore denies them.

10 24. Apple admits that Apple personnel attended meetings with Corephotonics personnel to
11 discuss a potential business arrangement. Apple is without sufficient information to admit or deny the
12 allegations in paragraph 24 and therefore denies them.

13 25. Apple admits that Apple personnel attended meetings with Corephotonics personnel to
14 discuss a potential business arrangement. Apple is without sufficient information to admit or deny the
15 allegations in paragraph 25 and therefore denies them.

16 26. Apple is without sufficient information to admit or deny the allegations in paragraph
17 26 and therefore denies them.

18 27. Apple is without sufficient information to admit or deny the allegations in paragraph
19 27 and therefore denies them.

20 28. Apple admits that Apple personnel attended meetings with Corephotonics personnel to
21 discuss a potential business arrangement. Apple is without sufficient information to admit or deny the
22 allegations in paragraph 28 and therefore denies them.

23 29. Apple admits that Apple personnel attended meetings with Corephotonics personnel to
24 discuss a potential business arrangement. Apple is without sufficient information to admit or deny the
25 allegations in paragraph 29 and therefore denies them.

26 30. Apple is without sufficient information to admit or deny the allegations in paragraph
27 30 and therefore denies them.

28 31. Apple is without sufficient information to admit or deny the allegations in paragraph

1 31 and therefore denies them.

2 32. Apple is without sufficient information to admit or deny the allegations in paragraph
3 32 and therefore denies them.

4 33. Apple is without sufficient information to admit or deny the allegations in paragraph
5 33 and therefore denies them.

6 34. Apple admits that it announced the iPhone 7 Plus on September 7, 2016. Apple admits
7 that the iPhone 7 Plus included a dual camera configuration. Apple further admits that the iPhone 7
8 Plus included a telephoto lens. Apple is without sufficient information to admit or deny the remaining
9 allegations in paragraph 34 and therefore denies them.

10 35. Apple admits that Apple personnel attended meetings with Corephotonics personnel to
11 discuss a potential business arrangement. Apple is without sufficient information to admit or deny the
12 allegations in paragraph 35 and therefore denies them.

13 36. Apple is without sufficient information to admit or deny the allegations in paragraph
14 36 and therefore denies them.

15 37. Apple admits that Corephotonics sent an email on or about October 31, 2017 alleging
16 that the iPhone 7 Plus and iPhone 8 Plus allegedly infringed the '032, '712, '291 and '152 patents, but
17 the email provided no information supporting Corephotonics' allegations. Apple admits that
18 Corephotonics filed the original Complaint in this action on November 6, 2017. Except as expressly
19 admitted, Apple denies the remaining allegations in paragraph 37.

20 38. Apple admits that its sought patent protection for its own inventions. Apple does not
21 understand Corephotonics' allegation that "During this time, Corephotonics' patents and related patent
22 applications were significant in the art," and therefore denies the allegation. Apple is without
23 sufficient information to admit or deny the remaining allegations in paragraph 38 and therefore denies
24 them.

25 39. Apple admits that it filed U.S. Patent Application No. 14/069,027 (the "'027
26 application"). Apple admits that the '027 application later issued as U.S. Patent No. 9,223,118. Apple
27 admits that an office action was issued dated February 18, 2015 rejecting the pending claims in the
28 '027 application based on U.S. Pat. App. Pub. No. 2015/0029601A1 (the "Dror application"). Apple

1 admits that the Dror application claims priority to the same patent application as the '032 and '712
2 patents. Apple admits that it responded to the February 18, 2015 office action on May 15, 2015 and
3 addressed the rejection based on the Dror application. Apple admits that Romeo Mercado is a named
4 inventor on the '027 application. Apple admits that Romeo Mercado was employed by Apple at the
5 time of the introduction of the iPhone 7 Plus. Apple denies that Romeo Mercado is currently an
6 employee of Apple. Apple is without sufficient information to admit or deny the remaining allegations
7 in paragraph 39 and therefore denies them.

8 40. Apple admits that it filed a patent application, U.S. Patent App. No. 14/871,720 (the
9 "'720 application") on September 30, 2015. Apple admits that the '720 application later issued as
10 U.S. Patent No. 9,769,389. Apple admits that Scott Miller is a named inventor on the "'720
11 application. Apple admits that Scott Miller is currently employed by Apple. Apple admits that the
12 '291 patent was cited in an Information Disclosure Statement during prosecution of the '720
13 application. Apple is without sufficient information to admit or deny the remaining allegations in
14 paragraph 40 and therefore denies them.

15 41. Apple admits that an Information Disclosure Statement filed in the '720 application
16 cited two Corephotonics patent applications. Except as expressly admitted, Apple denies the
17 remaining allegations in paragraph 41.

18 42. Apple admits that the '291 patent was cited in a March 24, 2016 Information Disclosure
19 Statement in U.S. Pat. Application No. 14/871,716 (the "'716 application") which later issued as U.S.
20 Patent No. 9,774,787. Apple further admits that the '291 patent was cited in a February 12, 2016
21 Information Disclosure Statement in U.S. Pat. Application No. 15/043,136 (the "'136 application")
22 which later issued as U.S. Patent No. 9,781,345. Except as expressly admitted, Apple denies the
23 remaining allegations in paragraph 42.

24 43. Apple admits that the Dror application was cited in an Information Disclosure
25 Statement in the '720 application. Apple further admits that the Dror application was cited in an
26 Information Disclosure Statement in the '716 application and the '136 application. Except as
27 expressly admitted, Apple denies the remaining allegations in paragraph 43.

28 44. Apple admits that U.S. Patent App. Pub. No. 2015/0085174 was identified in a March

24, 2016 Information Disclosure Statement in the '720 application. Apple further admits that U.S. Patent App. Pub. No. 2015/0085174 was identified in a March 24, 2016 Information Disclosure Statement in the '716 application. Apple further admits that U.S. Patent App. Pub. No. 2016/0085174 was identified in a February 12, 2016 Information Disclosure Statement in the '135 application. Except as expressly admitted, Apple denies the remaining allegations in paragraph 44.

FIRST CAUSE OF ACTION

Alleged Infringement of Patent No. 9,402,032

45. Apple incorporates its responses to the foregoing paragraphs as though fully set forth herein.

46. Apple denies the allegations in paragraph 46.

47. Apple denies that it infringes any valid claim of the '032 patent and therefore denies the allegations in paragraph 47.

48. Apple denies that it has infringed or continues to infringe the '032 patent. Apple denies that any alleged infringement of the '032 patent has been or continues to be wanton, deliberate, egregious, and willful. In view of the lack of specificity in the remaining allegations in paragraph 48, Apple is without sufficient information to admit or deny the remaining allegations in paragraph 48 and therefore denies them.

49. Apple admits that Corephotonics sent Apple an email on or about October 31, 2017 identifying the '032 patent. Apple admits that Corephotonics filed the original Complaint on November 6, 2017, four business days after sending the October 31, 2017 email. In view of the lack of specificity in the remaining allegations in paragraph 49, Apple is without sufficient information to admit or deny the remaining allegations in paragraph 49 and therefore denies them.

50. Apple denies the allegations in paragraph 50.

51. Apple denies the allegations in paragraph 51.

52. Apple denies the allegations in paragraph 52.

53. Apple denies the allegations in paragraph 53.

54. Apple admits that it publishes information about and provides instructions to end users about the telephoto lens zoom functionality in the iPhone 7 Plus and iPhone 8 Plus. Apple further

1 admits that it discussed the benefits of the telephoto lens functionality in the iPhone 7 Plus in the video
2 available at the following URL: https://www.youtube.com/watch?v=NS0txu_Kzl8. As of the date of
3 this Answer, no video is available at the following URL:
4 <https://www.youtube.com/watch?v=Q6dsRpVyyWs>; therefore, Apple is without sufficient
5 information to admit or deny the allegation relating to this URL. Apple denies the remaining
6 allegations in paragraph 54.

7 55. Apple denies the allegations in paragraph 55.

8 56. Apple denies the allegations in paragraph 56.

9 57. Apple denies the allegations in paragraph 57.

10 11 **SECOND CAUSE OF ACTION**

12 **Alleged Infringement of Patent No. 9,568,712**

13 58. Apple incorporates its responses to the foregoing paragraphs as though fully set forth
14 herein.

15 59. Apple denies the allegations in paragraph 59.

16 60. Apple denies that it infringes any valid claim of the '712 patent and therefore denies
17 the allegations in paragraph 60.

18 61. Apple denies that it has infringed or continues to infringe the '712 patent. Apple denies
19 that any alleged infringement of the '712 patent has been or continues to be wanton, deliberate,
20 egregious, and willful. In view of the lack of specificity in the remaining allegations in paragraph 61,
21 Apple is without sufficient information to admit or deny the remaining allegations in paragraph 61 and
22 therefore denies them.

23 62. Apple admits that Corephotonics sent Apple an email on or about October 31, 2017
24 identifying the '712 patent. Apple admits that Corephotonics filed the original Complaint on
25 November 6, 2017, four business days after sending the October 31, 2017 email. In view of the lack
26 of specificity in the remaining allegations in paragraph 62, Apple is without sufficient information to
27 admit or deny the remaining allegations in paragraph 62 and therefore denies them.

28 63. Apple denies the allegations in paragraph 63.

64. Apple denies the allegations in paragraph 64.

65. Apple denies the allegations in paragraph 65.

66. Apple denies the allegations in paragraph 66.

67. Apple admits that it publishes information about and provides instructions to end users about the telephoto lens zoom functionality in the iPhone 7 Plus and iPhone 8 Plus. Apple further admits that it discussed the benefits of the telephoto lens functionality in the iPhone 7 Plus in the video available at the following URL: https://www.youtube.com/watch?v=NS0txu_Kzl8. As of the date of this Answer, no video is available at the following URL: <https://www.youtube.com/watch?v=Q6dsRpVyyWs>; therefore, Apple is without sufficient information to admit or deny the allegation relating to this URL. Apple denies the remaining allegations in paragraph 67.

68. Apple denies the allegations in paragraph 68.

69. Apple denies the allegations in paragraph 69.

70. Apple denies the allegations in paragraph 70.

THIRD CAUSE OF ACTION

Alleged Infringement of Patent No. 9,185,291

71. Apple incorporates its responses to the foregoing paragraphs as though fully set forth herein.

72. Apple denies the allegations in paragraph 72.

73. Apple denies that it infringes any valid claim of the '291 patent and therefore denies the allegations in paragraph 73.

74. Apple denies that it has infringed or continues to infringe the '291 patent. Apple denies that any alleged infringement of the '291 patent has been or continues to be wanton, deliberate, egregious, and willful. Apple admits that the '291 patent was cited during the prosecution of the patents that issued as U.S. Patent Nos. 9,774,787 and 9,781,345. In view of the lack of specificity in the remaining allegations in paragraph 74, Apple is without sufficient information to admit or deny the remaining allegations in paragraph 74 and therefore denies them.

75. Apple admits that the '291 patent was cited during the prosecution of the patents that

1 issued as U.S. Patent Nos. 9,774,787 and 9,781,345. Apple admits that it publicly announced and
2 began offering the iPhone 7 Plus after citing the '291 patent during prosecution of the patents that
3 issued as U.S. Patent Nos. 9,774,787 and 9,781,345. Apple admits that Corephotonics sent Apple an
4 email on or about October 31, 2017 identifying the '291 patent. Apple admits that Corephotonics filed
5 the original Complaint on November 6, 2017, four business days after sending the October 31, 2017
6 email. In view of the lack of specificity in the remaining allegations in paragraph 75, Apple is without
7 sufficient information to admit or deny the remaining allegations in paragraph 75 and therefore denies
8 them.

9 76. Apple denies the allegations in paragraph 76.

10 77. Apple denies the allegations in paragraph 77.

11 78. Apple denies the allegations in paragraph 78.

12 79. Apple denies the allegations in paragraph 79.

13 80. Apple admits that it publishes information about and provides instructions to end users
14 about the dual-aperture camera functionality in the iPhone 7 Plus. Apple further admits that it
15 discussed the benefits of the dual-aperture camera functionality in the iPhone 7 Plus in the video
16 available at the following URL: https://www.youtube.com/watch?v=NS0txu_Kzl8. As of the date of
17 this Answer, no video is available at the following URL:
18 <https://www.youtube.com/watch?v=Q6dsRpVyyWs>; therefore, Apple is without sufficient
19 information to admit or deny the allegation relating to this URL. Apple denies the remaining
20 allegations in paragraph 80.

21 81. Apple denies the allegations in paragraph 81.

22 82. Apple denies the allegations in paragraph 82.

23 83. Apple denies the allegations in paragraph 83.

24 25 **FOURTH CAUSE OF ACTION**

26 **Alleged Infringement of Patent No. 9,538,152**

27 84. Apple incorporates its responses to the foregoing paragraphs as though fully set forth
28 herein.

1 85. Apple denies the allegations in paragraph 85.

2 86. Apple denies that it infringes any valid claim of the '152 patent and therefore denies
3 the allegations in paragraph 86.

4 87. Apple denies that it has infringed or continues to infringe the '152 patent. Apple denies
5 that any alleged infringement of the '152 patent has been or continues to be wanton, deliberate,
6 egregious, and willful. In view of the lack of specificity in the remaining allegations in paragraph 87,
7 Apple is without sufficient information to admit or deny the remaining allegations in paragraph 87 and
8 therefore denies them.

9 88. Apple admits that Corephotonics sent Apple an email on or about October 31, 2017
10 identifying the '152 patent. Apple admits that Corephotonics filed the original Complaint on
11 November 6, 2017, four business days after sending the October 30, 2017 email. In view of the lack
12 of specificity in the remaining allegations in paragraph 88, Apple is without sufficient information to
13 admit or deny the remaining allegations in paragraph 88 and therefore denies them.

14 89. Apple denies the allegations in paragraph 89.

15 90. Apple denies the allegations in paragraph 90.

16 91. Apple denies the allegations in paragraph 91.

17 92. Apple admits that it publishes information about and provides instructions to end users
18 about the dual-aperture camera functionality in the iPhone 7 Plus. Apple further admits that it
19 discussed the benefits of the dual-aperture camera functionality in the iPhone 7 Plus in the video
20 available at the following URL: https://www.youtube.com/watch?v=NS0txu_Kzl8. As of the date of
21 this Answer, no video is available at the following URL:
22 <https://www.youtube.com/watch?v=Q6dsRpVyyWs>; therefore, Apple is without sufficient
23 information to admit or deny the allegation relating to this URL. Apple denies the remaining
24 allegations in paragraph 92.

25 93. Apple denies the allegations in paragraph 93.

26 94. Apple denies the allegations in paragraph 94.

27 95. Apple denies the allegations in paragraph 95.

28 **RESPONSE TO PRAYER FOR RELIEF**

1 Apple incorporates by reference all preceding paragraphs of this answer as if fully set forth
2 herein. Apple denies any and all allegations of patent infringement alleged in the Complaint. Apple
3 denies all allegations that Plaintiff is entitled to any relief requested in paragraphs “A” to “F” of the
4 Complaint’s Prayer for relief, or any other relief.

5
6 **AFFIRMATIVE DEFENSES**

7 Pursuant to Federal Rule of Civil Procedure 8(c), and without altering any applicable burdens
8 of proof, Apple asserts the following defenses to the Complaint and reserves its right to assert
9 additional defenses.

10 **FIRST DEFENSE – NON-INFRINGEMENT**

11 Apple does not infringe and has not infringed any asserted claim of the Asserted Patents.

12 **SECOND DEFENSE – INVALIDITY**

13 All asserted claims of the Asserted Patents are invalid for failure to satisfy the conditions of
14 patentability in 35 U.S.C. §§ 101 et seq., including, but not limited to §§ 101, 102, 103, and/or 112.

15 **THIRD DEFENSE – EQUITABLE DEFENSES**

16 Corephotonics’ claims are barred, in whole or in part, by estoppel, acquiescence, waiver,
17 unclean hands, and/or other equitable defenses.

18 **FOURTH DEFENSE – NO WILLFULNESS**

19 Corephotonics is barred from obtaining a finding of willfulness or receiving enhanced damages
20 because it has failed to allege egregious conduct on the part of Apple, which is prerequisite for a
21 finding of willfulness and an award of enhanced damages.

22 **FIFTH DEFENSE – LIMITATION ON DAMAGES**

23 Corephotonics’ claims for costs and/or damages are barred, in whole or in part, by 35 U.S.C.
24 §§ 286, 287 and/or 288.

25 **RESERVATION OF RIGHTS**

26 Apple hereby reserves the right to amend its Answer and reserves all defenses set out in Rule
27 8(c) of the Federal Rules of Civil Procedure, the Patent Laws of the United States, and any other
28 defenses, at law or in equity, which become applicable after the substantial completion of discovery

1 or otherwise in the course of litigation.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Apple prays that this Court enter judgment:

4 A. In favor of Apple, and against Corephotonics, thereby dismissing Corephotonics'
5 Complaint in its entirety, with prejudice, with Corephotonics taking nothing by way of its claims;

6 B. That Apple has not infringed, and is not now infringing any valid claim of the Asserted
7 Patents, under any subsection of 35 U.S.C. § 271;

8 C. That all asserted claims of the Asserted Patents are invalid and/or unenforceable;

9 D. That this case stands out from others and as such is an exceptional case pursuant to 35
10 U.S.C. § 285 and ordering Corephotonics to pay Apple's reasonable attorneys' fees incurred in this
11 action;

12 E. That Corephotonics pay all costs incurred by Apple in this action; and awarding Apple all
13 other relief that the Court deems just and proper.

14 **DEMAND FOR JURY TRIAL**

15 Apple respectfully requests a trial by jury on all issues so triable.
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1 Dated: October 15, 2018

COOLEY LLP

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3 /s/ Heidi Keefe

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By: /s/ Heidi Keefe